

## **REQUIREMENTS FOR AGENCY EMPLOYEES ENTRY ONTO PRIVATE LANDS**

Department of Game, Fish and Parks Policy

Effective: January 28, 2005

Replaces: January 26, 2004

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### **PURPOSE STATEMENT**

This policy will provide direction and guidance to employees who may have cause to enter onto private lands in the performance of their duties.

### **BACKGROUND INFORMATION**

At times, agency employees in various job classifications may have cause to enter onto private lands in the performance of their duties. Following is a partial list of job-related situations where agency employees may have cause to enter private lands:

- A. Compliance checks and the enforcement of laws and regulations as performed by conservation officers and other agency law enforcement personnel and authorized by state and federal law;
- B. Agency law enforcement personnel rendering assistance to other law enforcement agencies in responding to emergencies, accidents or other matters pertaining to the protection of public safety;
- C. Agency law enforcement personnel attempting to serve warrants and processes of law;
- D. Collecting information on fish and wildlife populations and habitat conditions;
- E. Dispatching diseased, sick or injured wildlife;
- F. Providing assistance to farmers, ranchers and others seeking to control damage to livestock, crops, stored feed and other private property caused by wildlife;
- G. Entering into contracts or agreements with private landowners for the purpose of removing, trapping or stocking fish and wildlife;
- H. Entering into contracts or agreements with private landowners for the purpose of enrolling private lands into habitat enhancement or hunter/angler access programs;
- I. Accessing Department owned or managed property from adjacent private lands in order to construct or repair fences, conduct weed control or perform other land management work;
- J. Providing information and communicating with private landowners on issues associated with a wide range of agency responsibilities.

## **POLICY REQUIREMENTS RELATED TO ENTRY ONTO PRIVATE LANDS**

- A. While working in their official capacity, agency employees may not enter private land, without first seeking permission from the landowner or operator, for any purposes other than to make personal contact or gain permission for work related access to private land, with the exceptions listed in Sections B and C below.
- B. In situations such as car-deer collisions, where the injured animal is located on private land but near to the road right-of-way, agency employees may enter upon private land without landowner or operator permission in order to humanely dispatch injured or sick wildlife, provided such entry is made on foot. In situations where sick, injured or diseased animals are located a greater distance onto private land, agency employees shall make a reasonable attempt to gain permission from the landowner or operator prior to entering. If the employee is unable to secure permission from the landowner or operator, and the employee is compelled to take more immediate action, they may enter private land and shall notify the landowner/operator of the cause for the entry as soon as possible. Reasonable precautions should be taken so that any use of a motor vehicle on private lands does not cause damage to crops, pastures or other property.
- C. Conservation officers and other agency employees, whose duty is the enforcement of the game, fish, parks, boating and criminal laws of this state, shall follow the guidelines offered under the "Open Fields Doctrine", as summarized in Official Opinion Number 04-01 from the South Dakota Office of the Attorney General, when entering open fields on private land for the purposes of:
  - 1. Investigating reports of crimes and the enforcement of statutes as authorized under SDCL 41-15-10 and SDCL 41-15-10.1;
  - 2. Rendering assistance to other law enforcement agencies in responding to emergencies, accidents, various requests for assistance or other matters pertaining to the protection of public safety;
  - 3. Acting in the performance of his/her duty as a law enforcement officer; and
  - 4. Conducting compliance checks of hunters, trappers, anglers and boaters. Prior to entering private land to conduct a compliance check, officers must personally observe or be able to reasonably articulate that hunting, fishing, trapping, boating or other such activities regulated by the Department of Game, Fish and Parks are taking place on the property at the time.